

APPROVED AS WRITTEN

Town of Fitzwilliam
Zoning Board of Adjustment
Tuesday, February 13, 2018
Meeting Minutes

Member's Present: Steve Filipi, Chairman; Bob Handy; Carmen Yon, Alternate; Chad Beede; Susan Silverman, Selectman's Rep; Jack Ernst; Cathy Davis;

Other's Present: Lon Caracappa; Paul Grasewicz; Adam Kossadya

Member's Absent: Sue Wood, Alternate; Dan Sutton, Alternate

CTO: 7:02 pm.

Caracappa Hearing Continued. 7:02 pm.

Filipi stated that this was a continued hearing for Caracappa's Appeal from an Administrative Decision from the Board of Selectman for denying and after-the-fact Building Permit at his easement, owned by Paul and Rose Grasewicz.

Filipi explained that the Town had sought legal guidance on the case which recommended approval of the appeal based on the Appeal of Michele 168 N.H. 98, 103 (2015) which was referenced in Caracappa's attorney letter.

The Board briefly discussed the possibility that the structure(s) had been built in the setback. Based on the information provided by the applicant it was unclear whether or not the construction was in violation of the side yard setback. It was determined that the motion would inform the applicant to reapply for a construction permit and provide a complete set of plans to the BOS showing lot lines, locations of and sizes of existing structures and side and rear setback lines.

Filipi stated that Fitzwilliam's legal counsel considered the construction a 'structure' in terms of zoning/land use language. This had been questioned and discussed at the previous meeting by the board as Attorney Kossayda had stated in section IV of his letter that "a permit is not required because the structure is minor nature."

Filipi reiterated to the Board that there are many factors at play in this case, but the Board will only be addressing the case at hand, which is deciding whether or not the Board of Selectman wrongfully denied the after-the-fact Building Permit on the basis that it did not have the property owner's signature.

Filipi then discussed a proposed motion for the Lon Caracappa application for an Appeal from an Administrative Decision by the Board of Selectman for denying an-after-the fact Building Permit application at his easement at the Grasewicz property, at Tax Map 24, Lot 1, in the Rural District. The language of the proposed motion read as follows:

“I hereby make the motion to reverse the decision of the Board of Selectmen on the signature requirement as an easement holder can sign the application for permit. The applicant is hereby ordered to submit a new application to the Board of Selectmen, without having to pay a new fee, and with the plans prepared per Section 127-39 B.2 which requires: ‘A plan drawn to scale and prepared by a registered professional engineer or a registered land surveyor, as appropriate to the data; showing the dimensions of the development site; the location and dimensions of all existing and proposed structures; and the dimensions of all setbacks.’.”

Adam Kossadya, Lon Caracappa’s attorney, arrived at 7:12 pm just after the hearing began. Filipi explained what had previously been discussed to Kossadya, in order to fill him in.

Grasewicz asked Filipi how he may appeal the decision of the ZBA after it’s rendered, to which Filipi answered that the first step would be to apply for a rehearing of the case. Filipi also explained that the proposed motion requires Caracappa to reapply for a building permit with proper plans and if the BOS determined that the construction was in violation of the Zoning setback requirements they could not approve the application without a variance.

Filipi asked the Board if there was any further comment at this point. There was no further discussion. Filipi formally presented the motion for vote, Ernst seconded the motion, and the Board agreed unanimously.

Minutes from January 5, 2018. 7:30 pm.

Ernst motioned to accept the minutes as written, Handy seconded, and the Board agreed unanimously to accept the minutes of January 5, 2018 as written.

ZBA Application. 7:40 pm.

No discussion, moved to next meeting.

Davis motioned, Handy seconded, and the Board unanimously agreed to adjourn at 7:45 pm.